

REMARKS

Claims 1-2 and 4-13 are in the case. In the Office Action Claims 14-20 were withdrawn from consideration as being directed to a non-elected invention. Claims 3 and 14-20 are cancelled without prejudice or disclaimer. Accompanying this paper is RCE Transmittal (PTO/SB/30), Petition for an Extension of Time for a two-month extension (PTO/SB/22) and IDS Form 1449A listing seven (7) US Patents.

Discussion of the Amendment to the Specification and Figures 2 and 4.

Amendment to the Specification is made to the paragraph beginning on page 4, line 5 to make clear that the element “soft sealing surface” can be depicted as 14b. Support for this amendment can be found at least at page 4, lines 5-8, and Fig. 2 as originally filed.

Amendment to the Specification is made to the paragraph beginning on page 4, line 16 to make clear that the element “soft flexible material” which covers the neck support can be depicted as 12f. Support for this amendment can be found at least at page 4, lines 21-22, and Fig. 4 as originally filed.

Figure 2 is amended to provide specific reference (14b) to the claimed element of amended Claim 9, “soft sealing surface.” Support for this amendment can be found in the Specification at least at page 4, lines 5-8, and Fig. 2 as originally filed. A Replacement Sheet, showing currently amended Figure 2 and previously presented Figure 6, together with an Annotated Sheet Showing Changes (marked in red) to currently amended Figure 2 are included herewith.

Figure 4 is amended to provide specific reference (12f) to the claimed element of amended Claim 12, “liquid seal between the neck of the user and the covering material.” Support for this amendment is found at least at page 4, lines 21-22 and Figure 4 of the Specification as originally filed. A Replacement Sheet, showing currently amended Figure 4 and previously presented Figure 5, together with an Annotated Sheet Showing Changes (marked in red) to currently amended Figure 4 are included herewith.

No new matter is added by these amendments.

Discussion of the Amendments to the Claims

Claim 1 is amended to include the features of claim 3, now cancelled, of nozzle assemblies comprising rotating discs. Support for this amendment can be found at least in the Specification at page 4, lines 7-16 and Figure 6 as originally filed.

Claim 2 is amended to claim the feature of the liquid comprising water, shampoo, and/or hair conditioner. Support for this amendment can be found at least in the Specification at page 6, lines 9-12 and Claims 1 and 2 as originally filed.

Claim 5 is amended to claim the feature of a temperature control device for controlling the temperature of the water. Support for this amendment can be found at least in the Specification at page 7, lines 2-9, and Figures 3 and 5.

Claim 9 is amended to change the dependency and to clarify the structural relationships of the elements of the device. Support for this amendment can be found at least in the Specification at page 4, lines 5-7, and Figures 1 and 2 as originally filed.

Claim 12 is amended to claim the feature of the neck support comprising a covering material which forms a liquid seal between the neck of the user and the covering material. Support for this amendment can be found at least at page 4, lines 21-22 and Figure 4 as originally filed.

Claim 13 is amended to claim the feature of the covering material being formed from a soft flexible material. Support for this amendment can be found at least at page 4, lines 21-22 and Figure 4 as originally filed.

No new matter was added by any of these amendments.

Traverse of the Office Action Objections and Rejections

Item 1.

The Office Action withdrew claims 14-20 from consideration as being directed to a non-elected invention. Applicant hereby elects claims 1-2 and 4-13 and cancels claims 3 and 14-20 without prejudice or disclaimer.

Item 2.

The objection to the drawings under 37 CFR 1.83(a) as not showing every feature of the invention as specified in the claims is obviated by amendment to Figures 2 and 4 to show features of claims 9, 12 and 13 as amended.

Item 3.

The objection to lack of proper antecedent basis for particular language of claims 2 and 5 has been mooted by amendment of the claims.

Item 4.

Claims 12 and 13 stand rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The rejection is deemed to have been overcome by amendment to these claims.

Item 5.

The rejection of claim 9 under 35 U.S.C. 112, first paragraph, for lack of enablement is deemed overcome by amendment of the claim.

Item 6.

The rejection of claims 1-13 under 35 U.S.C. 112, first paragraph, for lack of enablement is respectfully traversed. Claim 1, as amended, states, in part, that “nozzle assemblies are configured for spraying liquid onto the hair of the user of the hair washing device in rotating streams, wherein each of the nozzle assemblies is comprised of a rotating disc which rotates in the assembly as liquid is sprayed therefrom”. The features of the claimed invention are deemed to be enabled at least by the Specification at page 5, lines 7-16, which states:

A preferred nozzle assembly 22 is shown in detail in Figure 6. Liquids are supplied to nozzle assembly 22 by pipe 21. Nozzle 22 has a stationary circular housing 22a rigidly connected to the inner wall 22a of basin 12. Each jet 22b is rigidly connected to a rotating disc 22d. Rotating disc 22d rotates as indicated by the arrow 23 in Figure 6. Preferably there are three jets 22b in each rotating disc 22d. The streams of liquid 22c exiting from jets 22b rotate as indicated by the arrow 24 in Figures 4 and 6 to insure a thorough wetting, washing, conditioning and rinsing of the hair of the person utilizing the automatic hair washing 10 of the invention. Each jet 22b is rigidly connected to a rotating disc 22d device 10 of the invention.

As the Specification makes clear both in the quoted paragraph and in Figure 6, and as one of skill in the art can readily appreciate, liquids supplied to the nozzle assembly by pipe 21 will impinge on the rotating disk 22d causing streams of liquid 22c exiting from jets 22b to rotate. This assertion of enablement of the features of the claimed invention is born out by the Rule 1.1321 Declaration of Mr. George Moran, an independent mechanical engineer who is highly experienced in the technical field of engineering fluid mechanics. In his enclosed Declaration, Mr. Moran states that “it is my opinion that the disclosure of the invention claimed in the Johnson application is enabling.” See Declaration under Rule 1.1321, page 2, item 6. Mr. Moran goes on to elaborate on his understanding of the present patent application at page 3, item 7:

The patent application provides for multiple rotating nozzle assemblies as shown in Figure 6 of the patent application and which create a liquid spray. The liquid is supplied under pressure to the rotating nozzles (22) through a piping system (21). Each nozzle is equipped with a rotatable disk (22d) which has small openings drilled, cast, etc., through the disk. The openings are inclined at an angle, and as the water or the liquid mix is forced through the angled opening or jet (22b) by the fluid

pressure in the pipe, the disk is forced to rotate and the liquid exits the jet as a spray.

Mr. Moran also provides examples of rotating turbo machinery based on “reaction with rotation”. See Declaration, page 3, item 8 and Appendix A. Thus, one of ordinary skill in the art at the time of the present application would have found the present disclosure enabling of the claimed invention. It is well settled that a patent need not teach what is well known in the art. See in this regard: *Spectra-Physics, Inc. v. Coherent, Inc.*, 827 F.2d 1524, 1534, 3 USPQ2d 1737, 1743 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 954 (1987) (“A patent need not teach, and preferably omits, what is well known in the art.”); *Paperless Accounting, Inc. v. Bay Area Rapid Transit Sys.*, 804 F.2d 659, 664, 231 USPQ 649, 653 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 933 (1987) (“A patent applicant need not include in the specification that which is already known to and available to the public.”); and *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1384, 231 USPQ 81, 94 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 947 (1987) (“ [A] patent need not teach, and preferably omits, what is well known in the art.”).

Item 7.

The dependency of claim 4 is now correct since claim 1, as amended, incorporates the features of claim 3.

Item 8. Does not require a response.

Item 9.

Claims 1, 2, 5, 6 and 8-12 are rejected as being anticipated by Sakane et al. (US 5,906,012). Since amended claim 1 now includes the features of claim 3, which was not anticipated by Sakane et al., this rejection is deemed to be inapplicable and should be withdrawn.

Item 10.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakane et al and Minami (US2002/0184703).

Applicants respectfully traverse this rejection on the basis that a *prima facie* case of

obviousness has not been established and does not exist. It is well settled that the Examiner bears the burden of establishing a *prima facie* case of obviousness based upon the prior art. See in this connection *In re Fritch*, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). It is also well settled that in applying Section 103(a), it is necessary to consider each and every limitation set forth in the claims. No limitation can be ignored. A rejection which fails to consider all claim limitations is improper and non-sustainable. *In re Glass*, 176 U.S.P.Q. 489 (CCPA 1973).

In as much as amended claim 1, from which presently rejected claim 7 depends, includes the feature “each of the nozzle assemblies is comprised of a rotating disc which rotates in the assembly as liquid is sprayed therefrom”, claim 7 also includes this feature. Neither Sakane et al. nor Minami teach or disclose this feature. Therefore, the obviousness rejection is without merit and should be withdrawn.

Item 11.

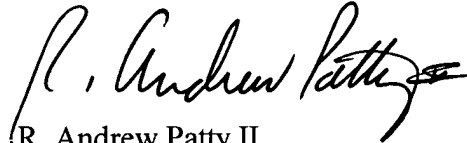
Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Sakane et al. Since claim 11 depends from claim 10 which depends from claim 1, the observations of the discussion of Item 10 apply equally here. Since the feature “each of the nozzle assemblies is comprised of a rotating disc which rotates in the assembly as liquid is sprayed therefrom” is not found in Sakane et al., Sakane et al. is an inapplicable reference for destroying the patentability of present claim 11. The rejection should be withdrawn.

Item 12.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakane et al. and Eckelbarger (US 5,842,239). In like manner to the arguments presented in the discussion of Items 10 and 11, the rejection of claims 12 and 13 as amended, which ultimately depend from and incorporate the features of amended claim 1, points up the inadequacy of the rejection of claims 12 and 13 on the basis of obviousness over Sakane et al. in combination with Eckelbarger, since the cited references do not disclose all features of the claimed invention. Therefore the Applicant requests that the rejection be withdrawn.

It is believed that the case is in condition for allowance. Further and favorable action is solicited. If matters remain requiring further consideration that may be expedited by discussion, the Examiner is requested to telephone the undersigned at the number given below so that such matters may be discussed and, if possible, promptly resolved.

Respectfully submitted,



R. Andrew Patty II
Reg. No. 38,992
Brenda C. Harvey
Reg. No. 50,405
SIEBERTH & PATTY, LLC
4703 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809

Phone: (225) 291-4600

Fax: (225) 291-4606

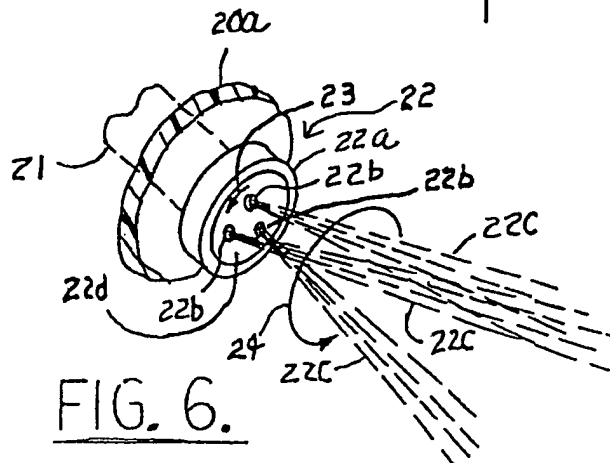
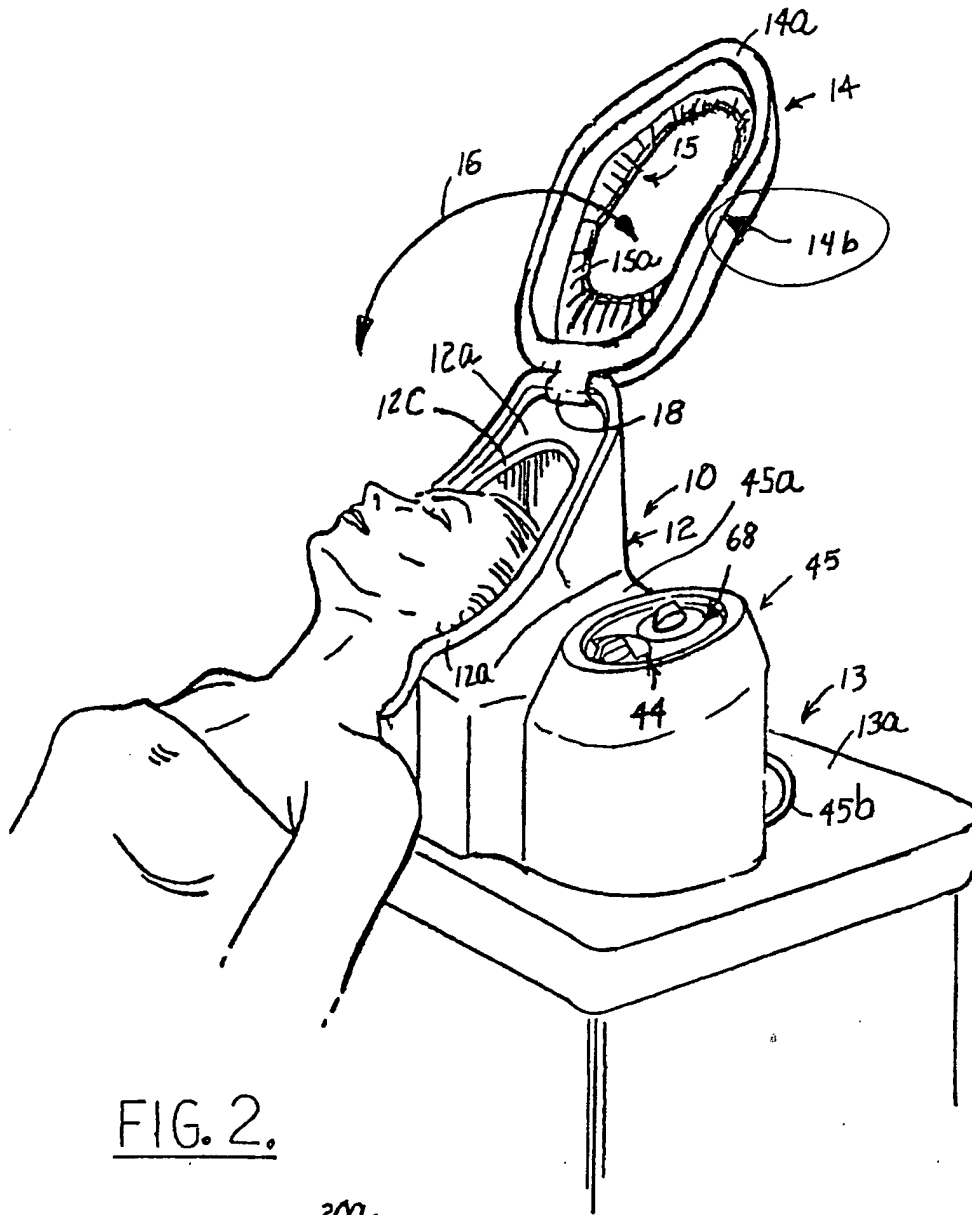
CERTIFICATE OF MAILING

I hereby certify that, in the course of ordinary business, this paper (along with any referred to as being attached or enclosed) are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated below, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

1-30-06
Date

Celeste N. Merritt
Celeste N. Merritt

Annotated Sheet Showing Changes



Annotated Sheet Showing Changes

